

Constables
Amendment No. 1
AMENDMENT NO. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND

Senate Bill No. 3130

House Bill No. 3488

Jones U*

Signature of Sponsor

By deleting all of the language after the enacting clause and by substituting instead the following language:

SECTION 1. This act shall be known and may be cited as the "Uniform Constable Accountability Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 8-10-101(a)(3)(A), is amended by adding the following language at the end of the subdivision:

Upon the adoption of such resolution, the presiding officer of the county legislative body shall notify the Tennessee code commission of the action taken.

SECTION 3. Tennessee Code Annotated, Section 8-10-101(a), is amended by deleting subdivision (1) in its entirety and by adding the following language as new subdivision (4):

(4) The general assembly encourages each constable who is vested with law enforcement powers to maintain the same qualifications as police officers pursuant to §38-8-106, and successfully possess a current and valid peace officer certification by the peace officer standards and training commission pursuant to §38-8-107. In the event that such constable does not possess such certification at the time of election, the county in which such constable serves is encouraged, but not required, to provide the funding for such training. It is the intent of the general assembly that such peace officer certification by the commission is preferred for such constables instead of the constable training program otherwise required by §8-10-207.

SECTION 4. Tennessee Code Annotated, Section 8-10-101(b)(1), is amended by deleting the first sentence in its entirety and by substituting instead the following language:

Constables in counties shall be elected from constable districts established by the county legislative body.

SECTION 5. Tennessee Code Annotated, Section 8-10-102, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-102.

(a) After January 1, 2007, to qualify for election or appointment to the office of constable, a person shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a qualified voter of the district;
- (3) Be able to read and write;
- (4) Have obtained a high school diploma or its equivalent in educational training as recognized by the Tennessee state board of education;
- (5) Not have been convicted in any federal or state court of a felony;
- (6) Not have been convicted of domestic violence;
- (7) Be fingerprinted and have the Tennessee bureau of investigation make a search of local, state and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of the Tennessee bureau of investigation. It shall forward all criminal history results to the county election commission for evaluation of qualifications;
- (8) Not have been separated or discharged from the armed forces of the United States with other than an honorable discharge;
- (9) Have been certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorders; and
- (10)
 - (A) Subject to subdivision (B), meet the certification requirements of §8-10-207(d).

(B) The provisions of this subdivision (10) do not apply to any office of constable whose law enforcement powers have been removed but who have retained the authority to serve lawfully issued process.

(b) In addition to meeting the requirements of subsection (a), if a constable has or will have law enforcement powers, and if the county in which such constable serves is subject to the workers' compensation law pursuant to §50-6-106, then the constable shall also meet the requirements of §38-8-106(7), and file the results of such physical examination with the presiding officer of the county legislative body.

(c) Any person seeking the office of constable shall file with the county election commission, along with the nominating petition, an affidavit signed by the candidate affirming that the candidate meets the requirements of this section. In the event that a person seeks election to the office of constable by the county legislative body to fill a vacancy in office, the same affidavit shall be filed with the county clerk prior to the election.

SECTION 6. Tennessee Code Annotated, Section 8-10-106, is amended by deleting the language "The bond shall be in a penalty of not less than four thousand dollars (\$4,000) nor more than eight thousand dollars (\$8,000), at the discretion of the body," and by substituting instead the language "The bond shall be in a penalty of not less than twenty-five thousand dollars (\$25,000), or in a greater sum as the county legislative body may determine,".

SECTION 7. Tennessee Code Annotated, Section 8-10-119, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-119.

(a) Except as provided in subsection (c), all constables shall wear the official uniform of the type and design with the insignias of the Tennessee constable as described in subsection (b).

(b) The official uniform for the constable shall consist of:

(1) Taupe pants with a one-inch wide brown stripe running vertically down each side of the pants;

(2) Shirts of either dark brown or white, at the discretion of the constable, displaying proper identification and a uniform badge of a design approved jointly by the Tennessee association of constables and the Tennessee constable council;

(3) A necktie of either taupe or brown, at the discretion of the constable; and

(4) Black leather gear and black shoes. Western-type belts, holsters and tie-downs are prohibited.

(c) The provisions of this section do not apply in any county which has removed from constables any law enforcement powers.

SECTION 8. Tennessee Code Annotated, Section 8-10-120, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-120.

(a)

(1) Constable patrol cars shall display conspicuous markings of at least one and one-half inches (1 ½") in height and fifteen inches (15") in width with the word "Constable" on both sides of the vehicle.

(2) Constable patrol cars may be white with a brown stripe running horizontally along the upper side. This color scheme shall not be used by any other state or local law enforcement official or agency; provided, that any state or local law enforcement official or agency that is using such color scheme on March 29, 1996, may continue to use such color scheme. When adopted for use by a county constable, the stripe design and other emblems and lettering shall conform to the official uniform markings adopted jointly by the Tennessee association of constables and the Tennessee constable council.

(3) On or after July 1, 2010, all constable patrol cars shall be white.

(b) Constable patrol cars may be equipped with blue lights and sirens or blue and red lights and sirens if such cars:

(1) Conform to the description in subsection (a);

(2) Are operated by a constable who:

(A) Possesses a current and valid peace officer certification by the peace officer standards and training commission pursuant to §38-8-107;

(B) Is authorized as provided in §55-9-414; and

(C) Graduated from the last calendar date in-service training required by §8-10-202; and

(3) Are used as emergency vehicles.

(c) No constable shall have the authority to stop a motor vehicle unless such constable is operating a constable patrol car meeting all the requirements of this section and is wearing the official uniform meeting the requirements of §8-10-119. Constables may use unmarked cars for law enforcement purposes other than motor vehicle offenses.

(d) Each constable shall be responsible for all costs in marking patrol cars.

(e)

(1) It is an offense for any person to fail to remove all markings required by subsection (a) from a personal motor vehicle used in an official capacity as a constable, within five (5) business days of such person vacating the office of constable.

(2) A violation of this subsection is a Class A misdemeanor, punishable by confinement of not greater than eleven (11) months twenty-nine (29) days, or a fine not to exceed two thousand five hundred dollars (\$2,500), or both.

SECTION 9. Tennessee Code Annotated, Section 8-10-202, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-202.

(a) Except as provided in §8-10-206, each constable shall complete forty (40) hours of in-service course time by June 1 of the year following the constable's election and forty (40) hours of in-service training by June 1 of each

subsequent year during the term for which the constable was elected in accordance with §8-10-207.

(b) The training required by this section shall be provided by a certified instructor meeting the requirements of §8-10-207.

(c) The following provisions shall apply to any constable having law enforcement powers elected after the effective date of this act:

(1) The constable shall be required to immediately file with the county clerk in which such constable serves a copy of the certificate of constable training issued by the peace officer standards and training commission in accordance with §8-10-207 or a copy of the peace officer certification issued by peace officer standards and training commission certification pursuant to §38-8-107, as appropriate.

(2) Failure to file the certificate of constable training or the peace officer certification with the county clerk by June 30 of each year shall subject such constable to vacation of the office of constable in accordance with subdivision (3).

(3)

(A) The county legislative body shall initiate ouster proceedings in accordance with title 8, chapter 47, part 1 against a constable of such county if the constable fails to file the certificate of constable training or peace officer certification with the county clerk by June 30 of each year.

(B) In lieu of such ouster proceedings, the county legislative body shall remove a constable from office upon a finding by two-thirds (2/3) vote that the constable has failed to file the certificate of constable training or peace officer certification with the county clerk by June 30 of a given year; provided, that such constable is given written notice at least thirty (30) days prior

to such removal vote, during which time such constable may appear and show cause why he should not be removed from office. Any constable who is removed from office may appeal such removal to the chancery court. The chancery court's jurisdiction over such appeal shall be limited to determining compliance with the provisions of this subdivision (c)(3).

(d)

(1) Constables who fail to adhere to the provisions of this act shall face discipline action by the Tennessee constables disciplinary board of the county from which the constable is elected. The Tennessee constables disciplinary board shall be composed of the following representatives in each county: two (2) members from the Tennessee constable council or two (2) members from the Tennessee constables association, or in a county where at least one (1) constable is a member of each such organization, then one (1) member from the Tennessee constable council and one (1) member from the Tennessee constables association; one (1) representative from the county commission; one (1) representative from the local sheriff's office; and one (1) non-elected, non-law enforcement citizen representative selected by the county commission.

(2) The Tennessee constable council and the Tennessee constables association shall jointly develop uniform rules to be followed by each Tennessee constables disciplinary board in conducting hearings and in imposing disciplinary actions.

SECTION 10. Tennessee Code Annotated, Section 8-10-109, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) Every constable, so elected and sworn, is a conservator of the peace only within the territorial limits of the county from which such constable is elected, and shall

have all power and authority necessary to perform such law enforcement duties in any
county having a population of:

not less than -----	nor more than -----
71,300	71,400
87,900	89,000
39,800	39,875
12,800	12,900
56,700	56,800
35,900	36,000
15,500	15,600
29,800	29,900
7,975	8,025
33,525	33,600
48,000	48,100
14,500	14,600
11,700	11,800
17,400	17,450
43,100	43,200
37,200	37,300
16,600	16,700
39,200	39,300
48,125	48,200
20,600	20,700
62,900	63,000
14,300	14,400
58,100	58,200
6,700	6,800

53,500	53,600
19,780	19,850
25,450	25,550
31,100	31,200
22,200	22,300
44,200	44,300
17,475	17,575
39,900	40,000
11,300	11,368
31,300	31,400
20,300	20,400
91,800	91,900
27,700	27,800
69,400	69,500
49,000	49,100
24,600	24,700
38,900	39,000
32,400	32,500
16,000	16,100
51,900	52,000
54,400	54,500
21,100	21,200
11,369	11,450
71,100	71,200
153,000	153,100
130,400	130,500
51,200	51,300
17,600	17,675

17,800	17,875
38,200	38,300
107,100	107,200
34,800	34,900
88,800	88,900

according to the 2000 census or any subsequent census.

(b)

(1) Every constable, so elected and sworn, is vested only with the power to serve lawfully issued process belonging to the office of constable in any county having a population of:

not less than	nor more than
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27,100	27,200
134,400	134,800
182,000	182,100
126,600	126,700

according to the 2000 census or any subsequent census.

(2)

(A) Notwithstanding any other provision of law to the contrary, a county legislative body may, by adopting a resolution by a two-thirds (2/3) vote at two (2) consecutive meetings of the county legislative body, remove any law enforcement powers exercised by the constables of the county. Upon the adoption of such resolution, the presiding officer of the county legislative body shall notify the Tennessee code commission of such action.

(B) This subdivision (2) does not apply in counties having a population of:

not less than	nor more than
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13,625	13,675
30,500	30,800
31,100	31,400
47,000	47,500
67,600	67,900
73,500	73,900
85,800	86,100

according to the 1990 federal census or any subsequent federal census.

(c) The office constable is abolished in any county having a population of:

not less than	nor more than
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37,500	37,600
16,500	16,575
12,300	12,368
105,800	105,900
29,460	29,550
46,800	46,900
569,800	569,900
28,800	28,900
29,400	29,450
307,800	307,900
28,100	28,200
25,575	25,650
8,050	8,100
17,900	18,000
10,900	11,000
382,000	382,100

7,900	7,970
31,300	31,400
39,050	39,150
11,025	11,100
5,700	5,800
19,500	19,775
20,100	20,200
4,900	5,000
62,300	62,400
28,350	28,450
897,400	897,500
17,700	17,775
7,200	7,300
16,800	16,900
23,100	23,200

according to the 2000 census or any subsequent census.

SECTION 11. Tennessee Code Annotated, Title 8, Chapter 10, Part 2, is amended by adding the following language as a new section:

§8-10-207.

(a) The peace officer standards and training commission, hereinafter referred to as the "commission," established in title 38, chapter 8, is authorized to develop a certified constable training program, including an initial instructor development training program and curriculum for such participants to facilitate additional training for constables within each grand division. No later than January 1, 2007, the commission shall provide an initial instructor development training course of eighty (80) hours for at least six (6) constables, composed of at least two (2) persons from each grand division who are recommended jointly by the Tennessee association of constables and the Tennessee constable council, and who are selected and approved by the commission.

Such instructor development training course shall be held at the Tennessee law enforcement training academy at no cost; provided, that any travel cost shall be borne by the individual participants. Each participant who successfully completes the initial training course shall be certified by the commission as a certified instructor. Any such certified instructor may conduct additional training for constables state-wide; provided, that such training lasts eighty (80) hours and only utilizes curriculum developed and approved by the commission in consultation with the Tennessee association of constables and the Tennessee constable council. No later than April 1, 2007, the certification program for training constables shall provide at least one (1) additional, eighty-hour training program for constables in each grand division, to be administered by a certified instructor. The certified instructor of each training program shall compile documentation of the program and send it electronically to the commission within five (5) business days of the program's completion. Such program documentation shall include the date and identity of all participants, the lesson plan used, and certification that each participant completed the required examination.

(b) Each office of constable participating in the commission's training program shall file a letter of intent with the commission stating its commitment to mandatory training for all law enforcement officers.

(c) The commission shall issue a certificate of constable training to any person who meets the qualifications for office of constable and satisfactorily completes the certified constable training program.

(d) Each constable who is vested with law enforcement authority shall successfully complete such certified constable training program, or otherwise be certified by the commission pursuant to §38-8-107, by December 1, 2007, if such constable is validly serving as a constable on January 1, 2007, or within one (1) year of the date of the constable's election or appointment if such constable is elected, re-elected or appointed after January 1, 2007. Thereafter, each constable shall successfully complete

an annual in-service training session pursuant to §8-10-202 or lose certification by the commission.

(e) Every constable who participates in a certified constable training program led by a certified instructor shall pay a fee, not to exceed fifty dollars (\$50.00), to the commission for the costs of materials, administrative expenses and as reimbursement for providing the initial instructor development training.

(f) If any constable vested with law enforcement powers fails to complete such certified constable training program or fails to complete the annual in-service training requirements, then such failure shall be deemed a knowing or willful neglect to perform a duty of the office of constable and shall be grounds for the initiation of ouster proceedings against such constable pursuant to §8-10-202(c).

SECTION 12. Tennessee Code Annotated, Section 55-9-414(b), is amended by deleting subdivision (1) in its entirety and by substituting instead the following language:

(1) The prohibition in subsection (a) does not apply to the motor vehicles of constables who are currently certified by the peace officer standards and training commission pursuant to §38-8-107, who are wearing law enforcement uniforms designated by the governing body of the county in which they serve in those counties in which such constables retain law enforcement powers and duties under the provisions of §§ 8-10-108, 39-17-505, 40-6-210, 55-8-152, 57-5-202 and 57-9-101.

SECTION 13. Tennessee Code Annotated, Section 38-8-107(d), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(d) The commission shall also issue a certificate of compliance to any person employed as a security officer pursuant to § 49-7-118, or any person elected or appointed as a constable with law enforcement powers, provided such person meets the qualifications for employment as a police officer and satisfactorily completes an approved recruit training program as required by this part. To retain such certification, the security officer or constable shall also successfully complete an annual in-service

training session appropriate for the officer's rank and responsibilities or the constable's duties.

SECTION 14. Tennessee Code Annotated, Section 39-14-502(d)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(3) Each county shall expend the funds generated by the mandatory fines provided for in this section by appropriation for the litter enforcement rewards. Excess funds, if any, may be expended for other litter control programs on adoption of an appropriate resolution by the county legislative body. A county legislative body is authorized to adopt an appropriate resolution to direct constables in the county to participate in such litter control program.

SECTION 15. This act shall take effect July 1, 2006, the public welfare requiring it.